

April 4, 2003
DECISION AND ORDER
OF THE DEPARTMENT OF ENERGY

Appeal

Name of Petitioner: Lola Jean Poulston-Walthall

Date of Filing: February 25, 2003

Case Number: TFA-0017

On February 25, 2003, Lola Jean Poulston-Walthall (Walthall) filed an Appeal from a determination issued to her on February 3, 2003, by the Oak Ridge Operations Office of the Department of Energy (DOE/OR) in response to a request for documents that Walthall submitted under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as implemented by the DOE in 10 C.F.R. Part 1004. This Appeal, if granted, would require that DOE/OR perform an additional search for responsive material.

I. Background

On November 12, 2001, Walthall filed a FOIA request with DOE/OR for a copy of medical records, personnel security file, personnel records, OPM Background Investigation and radiation exposure records pertaining to her father, Estes Elmo Poulston, who died in 1968. *See* FOIA Request (November 21, 2001). According to Walthall, Mr. Poulston was employed at DOE/OR from 1944 to 1946 as an electrician. Letter from Walthall to Director, OHA (Appeal) (February 25, 2003). DOE/OR searched its files and located a copy of Mr. Poulston's employment card, which it sent to Walthall in a letter dated June 7, 2002. On February 3, 2003, DOE/OR informed Walthall that it could find no additional responsive information. As a result, Walthall filed this Appeal. In the Appeal, Walthall stated that during an accident that occurred while Mr. Poulston was employed at Oak Ridge, he and his co-workers had to wade into waist deep water, and shortly thereafter became ill. Appeal at 1. According to Walthall, her father spent several months in the hospital and never regained his health. *Id.* In her Appeal, Walthall asks OHA to direct DOE/OR to search again for additional information regarding her father.

II. Analysis

In responding to a request for information filed under the FOIA, it is well established that an agency must "conduct a search reasonably calculated to uncover all relevant documents." *Truitt v. Department of State*, 897 F.2d 540, 542 (D.C. Cir. 1990). "The standard of reasonableness which we apply to agency

search procedures does not require absolute exhaustion of the files; instead, it requires a search reasonably calculated to uncover the sought materials.” *Miller v. Department of State*, 779 F.2d 1378, 1384-85 (8th Cir. 1985); *accord Truitt*, 897 F.2d at 542. We have not hesitated to remand a case where it is evident that the search conducted was in fact inadequate. *See, e.g., Glen Milner*, 17 DOE ¶ 80,102 (1988).

This office contacted DOE/OR for information regarding the search conducted in response to Walthall’s request. DOE/OR informed us that the Oak Ridge facilities did not begin to retain and maintain dosimetry records (a measure of the amount of radiation absorbed by the body) and medical records on individuals until the early 1950’s, well after Mr. Poulston had stopped working at Oak Ridge. Electronic Mail Message from Amy Rothrock, DOE/OR to Valerie Vance Adeyeye, OHA (February 28, 2003). Nonetheless, using identifiers for Mr. Poulston, DOE/OR conducted a search of the Oak Ridge Associated Universities (ORAU) Privacy Systems of Records DOE-71, DOE-72, and DOE-73 for recorded radiation accidents. 1/ DOE/OR also searched for any record of Mr. Poulston in the Radiation Registry or DTPA Registry. 2/ No responsive records were found in any of the systems of records. 3/ In addition, there were no medical records related to Mr. Poulston at any DOE/OR site. Electronic mail message from Amy Rothrock, DOE/OR to Valerie Vance Adeyeye, OHA (February 28, 2003).

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- 1/ ORAU operated the Oak Ridge Institute for Nuclear Studies (ORINS) hospital for cancer treatment experiments on humans in the 1950’s and possesses all medical and radiation exposure records relating to those patients. Electronic mail message from DOE/OR to Valerie Vance Adeyeye, OHA (March 31, 2003). ORAU is now called the Oak Ridge Institute for Science and Education, and holds the largest epidemiology records collections at the DOE for retrieving personnel, medical and radiation exposure data on current and former employees. *Id.*
- 2/ DTPA was a chelation agent used to medically treat radiation accident victims. Electronic mail message from DOE/OR to Valerie Vance Adeyeye, OHA (February 28, 2003).
- 3/ DOE/OR stated that if Walthall had provided information about the alleged accident in her original request, they could have expanded the search to include locations that could contain “general documents not retrievable by identifier but about the accident or similar accidents in the location [Poulston] worked in the timeframe [Poulston] worked” Electronic mail message from DOE/OR to Valerie Vance Adeyeye, OHA (February 28, 2003). We do not generally allow a requester to expand the scope of his or her request on appeal. *See Los Alamos Study Group*, 26 DOE ¶ 80,196 (1997); *National Security Archive*, 24 DOE ¶ 80,162 (1995). Walthall may, however, file a new FOIA request for information about the alleged accident, and provide DOE/OR with any information she may have.

Based on our analysis of the search as explained above, we find that DOE/OR has conducted an adequate search for responsive material. Accordingly, this Appeal should be denied.

It Is Therefore Ordered That:

(1) The Freedom of Information Act Appeal filed by Lola Jean Poulston-Walthall on February 25, 2003, OHA Case Number TFA-0017, is hereby denied.

(2) This is a final order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to 5 U.S.C. § 552(a)(4)(B). Judicial review may be sought in the district in which the requester resides or has a principal place of business, or in which the agency records are situated, or in the District of Columbia.

George B. Breznay
Director
Office of Hearings and Appeals

Date: April 4, 2003